

HOUSE BILL NO. 286

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/29/14

Referred: House Special Committee on Military and Veterans' Affairs, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Teachers' Retirement System, the Judicial Retirement System,**
2 **and the Public Employees' Retirement System for qualified military service; relating to**
3 **the definition of 'veteran' for purposes of housing, eligibility for veterans' loans, and**
4 **preferences in state employment hiring; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 14.25.195 is amended by adding new subsections to read:

7 (b) To the extent required by 26 U.S.C. 401(a)(37), if a member dies while
8 performing qualified military service, as defined in 38 U.S.C. 43, the survivors of the
9 member are entitled to any additional benefits that would have been provided to the
10 survivors under the plan had the member resumed employment and then terminated
11 employment on account of death. For purposes of this subsection, periods of qualified
12 military service are not included in calculations of credited service.

13 (c) Consistent with, and to the extent required by 26 U.S.C. 414(u)(12), a
14 member receiving differential wage payments from an employer shall be treated as

employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under 26 U.S.C. 415(c). For purposes of this subsection, "differential wage payment" means any payment which

(1) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services, as defined in 38 U.S.C. 43, while on active duty for a period of more than 30 days; and

(2) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.

* **Sec. 2.** AS 14.25.582 is amended by adding new subsections to read:

(b) To the extent required by 26 U.S.C. 401(a)(37), if a member dies while performing qualified military service, as defined in 38 U.S.C. 43, the survivors of the member are entitled to any additional benefits that would have been provided to the survivors under the plan had the member resumed employment and then terminated employment on account of death. For purposes of this section, periods of qualified military service are not included in calculations of credited service.

(c) Consistent with, and to the extent required by 26 U.S.C. 414(u)(12), a member receiving differential wage payments from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under 26 U.S.C. 415(c). For purposes of this subsection, "differential wage payment" means any payment which

(1) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services, as defined in 38 U.S.C. 43, while on active duty for a period of more than 30 days; and

(2) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.

* **Sec. 3.** AS 18.55.470(4) is amended to read:

(4) "veteran" means a person

(A) honorably separated from the military service of the United States who has at any time resided continuously for at least one [A] year in the state and who served in the armed forces of the United States for at least 90 days or whose service was for less than 90 days because of injury or disability incurred in the line of duty, between

(i) September 16, 1940, and July 25, 1947;

(ii) June 25, 1950, and January 31, 1955; [OR]

(iii) August 4, 1964, and November 7, 1975;

(iv) August 2, 1990, and January 2, 1992;

(v) September 11, 2001, and ending on the day prescribed by presidential proclamation or by law as the last date of Operation Iraqi Freedom; or

(vi) any of the time periods listed in 5 U.S.C. 2108(1);

(B) who served in the Alaska Territorial Guard for at least 90 days or whose service was for less than 90 days because of injury or disability incurred in the line of duty, and who has at any time resided continuously for at least one [A] year in the state;

(C) who is the spouse or widow or widower of a person described under (A) or (B) of this paragraph.

* **Sec. 4.** AS 22.25.110 is amended by adding new subsections to read:

(b) To the extent required by 26 U.S.C. 401(a)(37), if a member dies while performing qualified military service, as defined in 38 U.S.C. 43, the survivors of the member are entitled to any additional benefits that would have been provided to the survivors under the plan had the member resumed employment and then terminated employment on account of death. For purposes of this subsection, periods of qualified military service are not included in calculations of credited service.

(c) Consistent with, and to the extent required by 26 U.S.C. 414(u)(12), a member receiving differential wage payments from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under 26 U.S.C.

1 415(c). For purposes of this subsection, "differential wage payment" means any
2 payment which

3 (1) is made by an employer to an individual with respect to any period
4 during which the individual is performing service in the uniformed services, as defined
5 in 38 U.S.C. 43, while on active duty for a period of more than 30 days; and

6 (2) represents all or a portion of the wages the individual would have
7 received from the employer if the individual were performing service for the
8 employer.

9 * **Sec. 5.** AS 26.15.130(a) is amended to read:

10 (a) Qualifications for loans under this chapter are:

11 (1) persons who served in the armed forces of the United States for 90
12 days or more, or whose service was for less than 90 days because of injury or
13 disability incurred in the line of duty, between April 6, 1917, and November 11, 1918,
14 between [AND BEGINNING] September 16, 1940, and [TO] November 7, 1975,
15 between August 2, 1990, and January 2, 1992, beginning September 11, 2001, and
16 ending on the day prescribed by presidential proclamation or by law as the last
17 date of Operation Iraqi Freedom, or who served in a combat zone during any
18 period of armed conflict, or during any time period listed in 5 U.S.C. 2108(1), who
19 were separated from the armed forces with a discharge other than dishonorable, and

20 (A) who, at the time of induction into the service, were
21 residents of the territory or state, who had been residents for not less than one
22 year immediately before their induction, and who returned to the territory or
23 state after discharge as residents with the intention of remaining in the territory
24 or state; or

25 (B) who, not being bona fide residents of the territory or state
26 before their entry into the service, have been residents of the territory or state
27 for one or more years;

28 (2) persons who were dependent on a member of the armed forces or a
29 veteran of World War II at the time of the member's or veteran's death, if

30 (A) the member or veteran was a resident of the territory or
31 state for one year before induction into the service; and

(B) the member or veteran served in the armed forces for at least 90 days between September 16, 1940, and July 25, 1947, but benefits for loans do not accrue to dependents of an enlistee or re-enlistee for time served after November 1, 1945, regardless of whether the enlistment or reenlistment was before or after November 1, 1945; and

(C) the member or veteran died before the official date of the termination of that war; and

(D) the member's or veteran's discharge was not dishonorable;

(3) persons who have served in the Alaska Army National Guard or the Alaska Air National Guard or the Alaska Naval Militia for not less than six years and who have not received a discharge other than honorable.

* **Sec. 6.** AS 26.15.160 is amended to read:

Sec. 26.15.160. Extension of chapter to members of the Alaska Territorial Guard and to veterans of the armed forces of the United States [KOREA AND VIETNAM]. The provisions of this chapter, except those provisions relating to the payment of bonuses, are extended to persons who served in the Alaska Territorial Guard **and to veterans of the armed forces of the United States**, who served other than dishonorably on active duty between June 25, 1950, and January 31, 1955, [WHO SERVED OTHER THAN DISHONORABLY ON ACTIVE DUTY] between August 4, 1964, and November 7, 1975, **between August 2, 1990, and January 2, 1992, beginning September 11, 2001, and ending on the day prescribed by presidential proclamation or by law as the last date of Operation Iraqi Freedom, or during any time period listed in 5 U.S.C. 2108(1)** and to dependents of those persons, subject to the following provisions and eligibility qualifications:

(1) persons are eligible

(A) who served in the Alaska Territorial Guard, who were discharged other than dishonorably from the armed forces of the United States, or who are released to a reserve component; and

(B) who, at the time of entry into the service, were bona fide residents of the territory or State of Alaska and had been residents of the territory or state for not less than one year before their entry into the service;

1 and who have returned to the territory or state within a reasonable length of
 2 time after the end of their service in the Alaska Territorial Guard or their
 3 discharge or separation as residents with the intention of remaining in the
 4 territory or state; or who, not being bona fide residents of the territory before
 5 their entry into the service, have lived in the territory or state for at least five
 6 years following their release from active military service; and

7 (C) who served in the armed forces of the United States for 90
 8 days or more, or whose service was for a lesser period because of injury or
 9 disability incurred in line of duty, between June 25, 1950, and January 31,
 10 1955, [OR WHO SERVED IN THE ARMED FORCES OF THE UNITED
 11 STATES FOR 90 DAYS OR MORE OR WHOSE SERVICE WAS FOR A
 12 LESSER PERIOD BECAUSE OF INJURY OR DISABILITY INCURRED IN
 13 LINE OF DUTY,] between August 4, 1964, and July 1, 1977, between
 14 August 2, 1990, and January 2, 1992, beginning September 11, 2001, and
 15 ending on the day prescribed by presidential proclamation or by law as
 16 the last date of Operation Iraqi Freedom, or during any time period listed
 17 in 5 U.S.C. 2108(1), or who served in the Alaska Territorial Guard for 90 days
 18 or more or whose service in the Alaska Territorial Guard was for a lesser
 19 period because of injury or disability incurred in the line of duty;

20 (2) persons are eligible who were dependent upon a member of the
 21 Alaska Territorial Guard or armed forces or upon a veteran, including persons who
 22 served in the Alaska Territorial Guard, eligible for the benefits of this chapter at the
 23 time of the member's or veteran's death if the member or veteran was a resident of the
 24 territory for one year before entry into service [AND DIED BEFORE NOVEMBER 5,
 25 1975]; dependents must be unmarried and the deceased veteran or member of the
 26 armed forces must have been their chief means of support and they must be either a
 27 widow, widower, minor child, or a mother, father, sister, or brother incapable of self-
 28 support; dependents must be residents of the state at the time of application and shall
 29 intend to remain residents in the state permanently; the rights of minor children under
 30 this chapter may be exercised only if they have no surviving parent and have an
 31 appointed guardian who may apply on their behalf for the benefits of this chapter for

1 their care, support, or education;

2 (3) a person who is eligible for veteran's benefits under the laws of any
3 other state or territory is not eligible for the benefits of this section unless the person
4 has lived in the state or territory for at least five years following the end of the person's
5 service in the Alaska Territorial Guard or release from active military service; a World
6 War II veteran who received a bonus under former AS 26.15.120 and former
7 AS 26.15.150 need not repay the bonus in order to qualify under the loan provisions of
8 this section;

9 (4) for persons otherwise eligible for the benefits under this section,
10 who did not return to the state or territory **not later than** [WITHIN] one year after the
11 end of the persons' service in the Alaska Territorial Guard or separation from the
12 service unless prevented from doing so for medical, educational, or other valid
13 purposes approved by the Department of Commerce, Community, and Economic
14 Development **not later than** [WITHIN] one year after the end of the persons' service
15 in the Alaska Territorial Guard or separation from the service, an additional
16 requirement of four years' residence in the state or territory before their entry into the
17 service is imposed to entitle them to the benefit provisions of this section.

18 * **Sec. 7.** AS 39.25.159(f)(5) is amended to read:

19 (5) "veteran" means a person

20 (A) with 181 days or more active service in the armed forces of
21 the United States who has been honorably discharged after having served
22 during any period

23 (i) between April 6, 1917, and December 1, 1919,
24 between September 16, 1940, and December 31, 1947, [OR] between
25 June 27, 1950, and October 14, 1976, **between August 2, 1990, and**
26 **January 2, 1992, beginning September 11, 2001, and ending on the**
27 **day prescribed by presidential proclamation or by law as the last**
28 **date of Operation Iraqi Freedom, or during any time period listed**
29 **in 5 U.S.C. 2108(1);** or

30 (ii) in which the person was awarded a campaign badge,
31 expedition medal, the Purple Heart, or an award or decoration for

1 heroism or gallantry in action;

2 (B) who served 181 days or more in the Alaska Territorial
3 Guard.

4 * **Sec. 8.** AS 39.35.677 is amended by adding new subsections to read:

5 (b) To the extent required by 26 U.S.C. 401(a)(37), if a member dies while
6 performing qualified military service, as defined in 38 U.S.C. 43, the survivors of the
7 member are entitled to any additional benefits that would have been provided to the
8 survivors under the plan had the member resumed employment and then terminated
9 employment on account of death. For purposes of this subsection, periods of qualified
10 military service are not included in calculations of credited service.

11 (c) Consistent with, and to the extent required by 26 U.S.C. 414(u)(12), a
12 member receiving differential wage payments from an employer shall be treated as
13 employed by that employer, and the differential wage payment shall be treated as
14 compensation for purposes of applying the limits on annual additions under 26 U.S.C.
15 415(c). For purposes of this subsection, "differential wage payment" means any
16 payment which

17 (1) is made by an employer to an individual with respect to any period
18 during which the individual is performing service in the uniformed services, as defined
19 in 38 U.S.C. 43, while on active duty for a period of more than 30 days; and

20 (2) represents all or a portion of the wages the individual would have
21 received from the employer if the individual were performing service for the
22 employer.

23 * **Sec. 9.** AS 39.35.972 is amended by adding new subsections to read:

24 (b) To the extent required by 26 U.S.C. 401(a)(37), if a member dies while
25 performing qualified military service, as defined in 38 U.S.C. 43, the survivors of the
26 member are entitled to any additional benefits that would have been provided to the
27 survivors under the plan had the member resumed employment and then terminated
28 employment on account of death. For purposes of this subsection, periods of qualified
29 military service are not included in calculations of credited service.

30 (c) Consistent with, and to the extent required by 26 U.S.C. 414(u)(12), a
31 member receiving differential wage payments from an employer shall be treated as

1 employed by that employer, and the differential wage payment shall be treated as
 2 compensation for purposes of applying the limits on annual additions under 26 U.S.C.
 3 415(c). For purposes of this subsection, "differential wage payment" means any
 4 payment which

5 (1) is made by an employer to an individual with respect to any period
 6 during which the individual is performing service in the uniformed services, as defined
 7 in 38 U.S.C. 43, while on active duty for a period of more than 30 days; and

8 (2) represents all or a portion of the wages the individual would have
 9 received from the employer if the individual were performing service for the
 10 employer.

11 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
 12 read:

13 RETROACTIVITY. (a) AS 14.25.195(b), added by sec. 1 of this Act,
 14 AS 14.25.582(b), added by sec. 2 of this Act, AS 22.25.110(b), added by sec. 4 of this Act,
 15 AS 39.35.677(b), added by sec. 8 of this Act, and AS 39.35.972(b), added by sec. 9 of this
 16 Act, are retroactive to January 1, 2007.

17 (b) AS 14.25.195(c), added by sec. 1 of this Act, AS 14.25.582(c), added by sec. 2 of
 18 this Act, AS 22.25.110(c), added by sec. 4 of this Act, AS 39.35.677(c), added by sec. 8 of
 19 this Act, and AS 39.35.972(c), added by sec. 9 of this Act, are retroactive to January 1, 2009.

20 * **Sec. 11.** This Act takes effect immediately under AS 01.10.070(c).